IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATIONS NO.103/2001 & 104/2001

CIVIL REVISION APPLICATION NO.103/2001

Shri Shashikant Rama Borkar,
resident of House No.539,
Deulwadda, Borim, Ponda, Goa. .... Petitioner.

Vs.

1. Smt. Surekha Dinanath Devari;
2. Shri Santosh Dinanath Devari;
3. Sandhya Dinanath Devari;
4. Sarita P. Mahajan;
5. Shri Pranshankar Mahajan,

All legal represnetatives of
late Shri Dinanath Vishwambhar
Devari, resident of Deulwadda,
Ponda, Goa. ... Respondents.

CIVIL REVISION APPLICATION NO.104/2001

Shri Shashikant Rama Borkar,
resident of House No.539,
Deulwadda, Borim, Ponda, Goa. .... Petitioner.

Vs.

1. Shri Ladu Shivram Devari,
(since deceased), represented
by his legal heirs;

A) Shri Anand Gajanan Devari;

B) Mrs. Milan Devari,
both residents of Deulwada,
Borimn, Ponda, Goa. .... Respondents.

Mr. M.S. Sonak, Advocate for the Petitioner.

Mr. C.A. Coutinho, Advocate for the respondents.

CORAM : F.I. REBELLO, J.

DATE : JULY 17, 2003.

ORAL JUDGMENT:

By order dated 3.3.2001 passed in Land Acquisition Cases No.182/97 and 183/97 on the issue of res judicata being pleaded by the respondents, the reference Court answered the issue in the affirmative by holding that the reference would be barred by the principles of res judicata. After so holding, the learned reference Court however did not proceed to dispose of the reference.

2. These two revision applications have been preferred against the said order of the learned reference Court. All that the reference Court has done is that it proceeded to decide the issue in the reference. Once that be the case, the revisions as filed would not be maintainable, as it would be open to the petitioner herein to raise that issue in appropriate proceedings which they would be entitled to.

However, what is seen is that the learned reference Court after holding that the issue is res judicata, has not passed the operative part in the reference to reject the reference on answering the said issue or in the event some other issues are alive, to answer the said issues. Considering that, and without referring to other aspects, the reference Court is directed to answer the two references and dispose them,

according to law. Once they are so disposed of, it would be open to the petitioner herein to raise all issues, including the issue not covered in those proceedings, which they would be so advised to take out.

With the above observations, the Civil Revision Applications are disposed of with no order as to costs.

F.I. REBELLO, J.

ssm.